IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 9535 of 2005

Between:

Roop Singh Naik s/o Venkat Naik,
R/o Annogiguda, Pocharam Gram Panchayat, R.R.District.

..... PETITIONER

AND

1. The Andhra Pradesh Housing Board, rep., by its Managing Director-cum-

Vice Chairman, Gruhakalpa Building, Gandhi Bhavan, Nampally,

Hyderabad.

2. The District Collector, R.R.District, Gosha Mahal at Lakdikapool,

Hyderabad.

(Respondent No.2 is impleaded as per Court order dated 26-04-2005)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction one in the nature of writ of mandamus a) declaring the action of the respondent in constructing the walls on the either side of the approach road which leads to Singapore Township in Pocharam Village is arbitrary, illegal, unreasonable and violative of Article 14 & 21 of Constitution of India b) a direction may be given to respondent not to carryout any construction of

wall on both sides of the approach road which leads to Singapore Township at Pocharam Village in the interest of justice c) costs be awarded to the petitioner and pass such other order or orders appropriate in the circumstances of the case.

Counsel for the Petitioner:MR.B.MAHENDER REDDY

Counsel for the Respondent No.1 : MR.J.PRABHAKAR (Standing Counsel for APHB)

Counsel for Respondent No.2:Advocate General.

The Court at the admission stage made the following :

O R D E R (Per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties.

The report by the Collector, in terms of the order of this Court dated 26-04-2005, has been filed. The grievance of the petitioner is that the respondents are constructing a wall through the road, which has been constructed to connect the township known as 'Singapore Township' in Pocharam village. The petitioner submits that the road was acquired for the purpose of providing access to the Singapore Township, which divides two villages and by constructing a wall on both sides of the road, the villagers would not have access through this road. It is an admitted case of the parties that the road was acquired for the purpose of providing access to the people living in the colony. As such, after the acquisition, this was sold for building the colony and eventually, this road became a private road for those who acquired buildings in the colony.

Learned counsel for the petitioner submits that access cannot be stopped on a public road in view of Section 53 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act"). For the application of this Section, petitioner has to satisfy that the road was a public road. Public road and private road have been defined in sub-sections (32) and (33) of Section 2 of the Act. From a bare perusal of these two sub-

sections, it becomes clear that all roads are public roads unless they fall within the definition of private road under sub-section (32) of Section 2 of the Act, which reads as under:

> *"**2(32) "Private road"** means any street, road, square, court, alley, passage or riding-path which is not a "public road", but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of such premises"*

Since the road has been purchased by the users for their own use, it is a private road, therefore, the petitioner has got no grievance if the respondents are constructing a wall over it. Learned counsel for the petitioner has also drawn our attention to the judgment of the Supreme Court reported in ***Municipal Corporation of Greater Bombay v.Premnagar Zopadapatti committee Society.*** This judgment, in our view, does not attract the facts of the present case. The land in that case had been acquired for the purpose of establishing a medical college, nursing college, primary school, gardens, etc., and it was a case of encroachment of the land, which was subject matter of the writ petition, therefore, we do not find any similarity between the case at hand and the case decided by the Supreme Court.

For these reasons, we do not find any merit in this writ petition, which is accordingly dismissed. No order as to costs.

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(Bilal Nazki, ACJ)

4th July, 2005

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(G.Chandraiah,J)

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To

1. The Managing Director-cum-Vice Chairman,Andhra Pradesh Housing Board, Gruhakalpa Building, Gandhi Bhavan, Nampally, Hyderabad.

2. The District Collector, R.R.District, Gosha Mahal at Lakdikapool, Hyderabad.

3 Two C.Cs to the Advocate General, High Court Buildings, A.P., Hyderabd(OUT)

4 2 CD copies

5 1 CC to MR.MAHENDER REDDY